

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated March 17, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-14 are pending in the Application. By means of the present amendment, the claims are amended including for better conformance to U.S. practice, such as changing "characterized in that" to --wherein--, correcting typographical errors, amending dependent claims to begin with "The" as opposed to "A", as well as correcting certain informalities noted upon review of the claims. By these amendments, the claims are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority documents.

Applicants thank the Examiner for acknowledging receipt and consideration of an Information Disclosure Statement filed.

In the Office Action, claims 1-14 are rejected under 35 U.S.C. §102(e) over U.S. Patent application publication No. 2002/0136537 to Takahashi ("Takahashi"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-14 are allowable over Takahashi for at least the following reasons.

Takahashi, as pointed out in the Office Action, describes, e.g., in paragraph [0011], an information recording apparatus having a recording section and a replacement recording section. The apparatus records the desired data in a spare area serving as a replacement destination of the defective area when it is determined on the basis of the defect management information, that a recording destination of the desired data corresponds to a defective area.

It is respectfully submitted that the apparatus of claim 1 is not anticipated by the teachings of Takahashi. For example, Takahashi does not disclose or suggest, an apparatus that amongst other patentable elements, comprises (illustrative emphasis added) a control means adapted "to read the user data from the replacement area, and to re-record the user data read in the defect area regardless of the defect management rules" as recited in claim 1

and as similarly recited in claim 7. Furthermore, Takahashi does not disclose or suggest, an apparatus that amongst other patentable elements, comprises (illustrative emphasis added) a control means adapted "to read the user data either from the replacement area or from the defect area corresponding to the replacement area in dependence on monitoring and speed requirements for the speed of outputting the digital audio/video signals read" as recited in claim 5 and as similarly recited in claim 11. While the Office Action relies on Takahashi, paragraphs [0012] and [0100] in support of rejecting claim 5, it is respectfully submitted that reliance on these portions of Takahashi or any portions for that matter is misplaced. While paragraph [0100] of Takahashi does discuss control of focus and tracking on the basis of data played back, Takahashi does not disclose or suggest reading user data from one of two locations in dependence on monitoring and speed requirements.

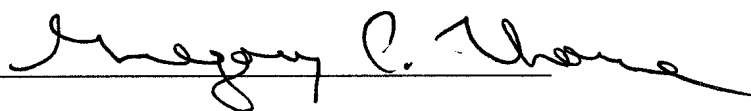
Based on the foregoing, the Applicants respectfully submit that independent claims 1, 5, 7, and 11 are patentable over Takahashi and notice to this effect is earnestly solicited. Claims 2-4, 6, 8-10, and 12-14 respectively depend from one of claims 1, 5, 7, and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each

of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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